



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5816

by Rep. John D. Anthony

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 140/7

from Ch. 116, par. 207

Creates the Public Safety Officer Privacy Act. Prohibits a person, business, association, or government agency from publicly posting or displaying the personal information of a public safety officer 5 days after the receipt of an officer's written request to not post or display the personal information. Allows for injunctive or declaratory relief for violations. Prohibits a person, business, or association from soliciting, selling, or trading on the Internet a public safety officer's personal information with the intent to pose an imminent and serious threat to the health and safety of the public safety officer or the officer's immediate family. Amends the Freedom of Information Act. Excludes personal information of a public safety officer covered by the Public Safety Officer Privacy Act from being included as a public record under the Freedom of Information Act, and from inspection or copying under the Act.

LRB099 14827 MRW 44678 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Public
5 Safety Officer Privacy Act.

6 Section 5. Purpose. The purpose of this Act is to improve
7 the safety and security of Illinois public safety officers to
8 ensure they are able to uphold their duty to maintain public
9 safety without fear of personal reprisal from individuals
10 affected by the decisions they make in the course of carrying
11 out their public function. This Act is not intended to restrain
12 a public safety officer from independently making public his or
13 her own personal information. Additionally, no government
14 agency, person, business, or association has any obligation
15 under this Act to protect the privacy of a public safety
16 officer's personal information until the public safety officer
17 makes a written request that his or her personal information
18 not be publicly posted.

19 Section 10. Definitions. As used in this Act:

20 "Correctional officer" means a person who is employed by or
21 works for a government agency penal institution.

22 "Fire fighter" means any person appointed to a fire

1 department or fire protection district or employed by a
2 government agency and sworn or commissioned to perform fire
3 fighter duties or paramedic duties, including part-time fire
4 fighters, auxiliary, reserve or voluntary fire fighters, and
5 paid on-call fire fighters.

6 "Government agency" includes all agencies, authorities,
7 boards, commissions, departments, institutions, offices, and
8 any other bodies politic and corporate of the State created by
9 the constitution or statute, whether in the executive,
10 judicial, or legislative branch; all units and corporate
11 outgrowths created by executive order of the Governor or any
12 constitutional officer, by the Supreme Court, or by resolution
13 of the General Assembly; or agencies, authorities, boards,
14 commissions, departments, institutions, offices, and any other
15 bodies politic and corporate of a unit of local government, or
16 school district.

17 "Home address" includes a public safety officer's
18 permanent residence and any secondary residences affirmatively
19 identified by the public safety officer, but does not include a
20 public safety officer's work address.

21 "Immediate family" includes a public safety officer's
22 spouse, child, parent, or any blood relative of the public
23 safety officer or the public safety officer's spouse who lives
24 in the same residence.

25 "Peace officer" or "officer" means a person defined under
26 Section 2-13 of the Criminal Code of 2012.

1 "Penal institution" means an institution defined under
2 Section 2-14 of the Criminal Code of 2012.

3 "Personal information" means a home address, home
4 telephone number, mobile telephone number, pager number,
5 personal email address, social security number, federal tax
6 identification number, checking and savings account numbers,
7 credit card numbers, marital status, and identity of children
8 under the age of 18.

9 "Public safety officer" means a peace officer, fire
10 fighter, or correctional officer.

11 "Publicly available content" means any written, printed,
12 or electronic document or record that provides information or
13 that serves as a document or record maintained, controlled, or
14 in the possession of a government agency that may be obtained
15 by any person or entity, from the Internet, from the government
16 agency upon request either free of charge or for a fee, or in
17 response to a request under the Freedom of Information Act.

18 "Publicly post" or "publicly display" means to communicate
19 to another or otherwise make available to the general public.

20 "Written request" means written notice signed by a public
21 safety officer or a representative of the public safety
22 officer's employer requesting a government agency, person,
23 business, or association to refrain from posting or displaying
24 publicly available content that includes the public safety
25 officer's personal information.

1 Section 15. Publicly posting or displaying a public safety
2 officer's personal information.

3 (a) Government agencies shall not publicly post or display
4 publicly available content that includes a public safety
5 officer's personal information, provided that the government
6 agency has received a written request in accordance with
7 Section 20 of this Act that it refrain from disclosing the
8 public safety officer's personal information. After a
9 government agency has received a written request, that agency
10 shall remove the public safety officer's personal information
11 from publicly available content within 5 business days. After
12 the government agency has removed the public safety officer's
13 personal information from publicly available content, the
14 agency shall not publicly post or display the information and
15 the public safety officer's personal information shall be
16 exempt from the Freedom of Information Act unless the
17 government agency has received consent from the public safety
18 officer to make the personal information available to the
19 public.

20 (b) All persons, businesses, and associations shall not
21 publicly post or display on the Internet available content that
22 includes a public safety officer's personal information,
23 provided that the public safety officer has made a written
24 request in accordance with Section 20 of this Act to the
25 person, business, or association that it refrain from
26 disclosing the personal information. After a person, business,

1 or association has received a written request from a public
2 safety officer to protect the privacy of the officer's personal
3 information, that person, business, or association shall have 5
4 business days to remove the personal information from the
5 Internet. That person, business, or association shall also
6 ensure that the public safety officer's personal information is
7 not made available on any website or subsidiary website
8 controlled by that person, business, or association, nor
9 transferred to any other person, business, or association
10 through any medium. Regardless of whether a written request has
11 been made, no person, business, or association shall solicit,
12 sell, or trade on the Internet a public safety officer's
13 personal information with the intent to pose an imminent and
14 serious threat to the health and safety of the public safety
15 officer or the public safety officer's immediate family.

16 (c) A public safety officer whose personal information is
17 made public as a result of a violation of this Act may bring an
18 action seeking injunctive or declaratory relief in any court of
19 competent jurisdiction.

20 Section 20. Procedure for completing a written request.

21 (a) No government agency, person, business, or association
22 shall be found to have violated any provision of this Act if
23 the public safety officer fails to submit a written request
24 calling for the protection of the officer's personal
25 information.

1 (b) A written request shall be valid if the public safety
2 officer sends a written request directly to a government
3 agency, person, business, or association.

4 (c) A representative from the public safety officer's
5 employer may submit a written request on the public safety
6 officer's behalf, provided that the public safety officer gives
7 written consent to the representative and the representative
8 agrees to furnish a copy of that consent when a written request
9 is made. The representative shall submit the written request as
10 provided in subsection (b) of this Section.

11 (d) A public safety officer's written request shall specify
12 what personal information shall be maintained private. If a
13 public safety officer wishes to identify a secondary residence
14 as a home address, the designation shall be made in the written
15 request. A public safety officer shall disclose the identity of
16 the officer's immediate family and indicate that the personal
17 information of these family members shall also be excluded to
18 the extent that it could reasonably be expected to reveal the
19 personal information of the public safety officer.

20 (e) A public safety officer's written request is valid
21 until he or she provides the government agency, person,
22 business, or association with written permission to release the
23 private information. A public safety officer's written request
24 expires upon death of the officer.

25 Section 105. The Freedom of Information Act is amended by

1 changing Section 7 as follows:

2 (5 ILCS 140/7) (from Ch. 116, par. 207)

3 Sec. 7. Exemptions.

4 (1) When a request is made to inspect or copy a public
5 record that contains information that is exempt from disclosure
6 under this Section, but also contains information that is not
7 exempt from disclosure, the public body may elect to redact the
8 information that is exempt. The public body shall make the
9 remaining information available for inspection and copying.
10 Subject to this requirement, the following shall be exempt from
11 inspection and copying:

12 (a) Information specifically prohibited from
13 disclosure by federal or State law or rules and regulations
14 implementing federal or State law.

15 (b) Private information, unless disclosure is required
16 by another provision of this Act, a State or federal law or
17 a court order.

18 (b-5) Files, documents, and other data or databases
19 maintained by one or more law enforcement agencies and
20 specifically designed to provide information to one or more
21 law enforcement agencies regarding the physical or mental
22 status of one or more individual subjects.

23 (c) Personal information contained within public
24 records, the disclosure of which would constitute a clearly
25 unwarranted invasion of personal privacy, unless the

1 disclosure is consented to in writing by the individual
2 subjects of the information. "Unwarranted invasion of
3 personal privacy" means the disclosure of information that
4 is highly personal or objectionable to a reasonable person
5 and in which the subject's right to privacy outweighs any
6 legitimate public interest in obtaining the information.
7 The disclosure of information that bears on the public
8 duties of public employees and officials shall not be
9 considered an invasion of personal privacy.

10 (d) Records in the possession of any public body
11 created in the course of administrative enforcement
12 proceedings, and any law enforcement or correctional
13 agency for law enforcement purposes, but only to the extent
14 that disclosure would:

15 (i) interfere with pending or actually and
16 reasonably contemplated law enforcement proceedings
17 conducted by any law enforcement or correctional
18 agency that is the recipient of the request;

19 (ii) interfere with active administrative
20 enforcement proceedings conducted by the public body
21 that is the recipient of the request;

22 (iii) create a substantial likelihood that a
23 person will be deprived of a fair trial or an impartial
24 hearing;

25 (iv) unavoidably disclose the identity of a
26 confidential source, confidential information

1 furnished only by the confidential source, or persons
2 who file complaints with or provide information to
3 administrative, investigative, law enforcement, or
4 penal agencies; except that the identities of
5 witnesses to traffic accidents, traffic accident
6 reports, and rescue reports shall be provided by
7 agencies of local government, except when disclosure
8 would interfere with an active criminal investigation
9 conducted by the agency that is the recipient of the
10 request;

11 (v) disclose unique or specialized investigative
12 techniques other than those generally used and known or
13 disclose internal documents of correctional agencies
14 related to detection, observation or investigation of
15 incidents of crime or misconduct, and disclosure would
16 result in demonstrable harm to the agency or public
17 body that is the recipient of the request;

18 (vi) endanger the life or physical safety of law
19 enforcement personnel or any other person; or

20 (vii) obstruct an ongoing criminal investigation
21 by the agency that is the recipient of the request.

22 (d-5) A law enforcement record created for law
23 enforcement purposes and contained in a shared electronic
24 record management system if the law enforcement agency that
25 is the recipient of the request did not create the record,
26 did not participate in or have a role in any of the events

1 which are the subject of the record, and only has access to
2 the record through the shared electronic record management
3 system.

4 (e) Records that relate to or affect the security of
5 correctional institutions and detention facilities.

6 (e-5) Records requested by persons committed to the
7 Department of Corrections if those materials are available
8 in the library of the correctional facility where the
9 inmate is confined.

10 (e-6) Records requested by persons committed to the
11 Department of Corrections if those materials include
12 records from staff members' personnel files, staff
13 rosters, or other staffing assignment information.

14 (e-7) Records requested by persons committed to the
15 Department of Corrections if those materials are available
16 through an administrative request to the Department of
17 Corrections.

18 (f) Preliminary drafts, notes, recommendations,
19 memoranda and other records in which opinions are
20 expressed, or policies or actions are formulated, except
21 that a specific record or relevant portion of a record
22 shall not be exempt when the record is publicly cited and
23 identified by the head of the public body. The exemption
24 provided in this paragraph (f) extends to all those records
25 of officers and agencies of the General Assembly that
26 pertain to the preparation of legislative documents.

1 (g) Trade secrets and commercial or financial
2 information obtained from a person or business where the
3 trade secrets or commercial or financial information are
4 furnished under a claim that they are proprietary,
5 privileged or confidential, and that disclosure of the
6 trade secrets or commercial or financial information would
7 cause competitive harm to the person or business, and only
8 insofar as the claim directly applies to the records
9 requested.

10 The information included under this exemption includes
11 all trade secrets and commercial or financial information
12 obtained by a public body, including a public pension fund,
13 from a private equity fund or a privately held company
14 within the investment portfolio of a private equity fund as
15 a result of either investing or evaluating a potential
16 investment of public funds in a private equity fund. The
17 exemption contained in this item does not apply to the
18 aggregate financial performance information of a private
19 equity fund, nor to the identity of the fund's managers or
20 general partners. The exemption contained in this item does
21 not apply to the identity of a privately held company
22 within the investment portfolio of a private equity fund,
23 unless the disclosure of the identity of a privately held
24 company may cause competitive harm.

25 Nothing contained in this paragraph (g) shall be
26 construed to prevent a person or business from consenting

1 to disclosure.

2 (h) Proposals and bids for any contract, grant, or
3 agreement, including information which if it were
4 disclosed would frustrate procurement or give an advantage
5 to any person proposing to enter into a contractor
6 agreement with the body, until an award or final selection
7 is made. Information prepared by or for the body in
8 preparation of a bid solicitation shall be exempt until an
9 award or final selection is made.

10 (i) Valuable formulae, computer geographic systems,
11 designs, drawings and research data obtained or produced by
12 any public body when disclosure could reasonably be
13 expected to produce private gain or public loss. The
14 exemption for "computer geographic systems" provided in
15 this paragraph (i) does not extend to requests made by news
16 media as defined in Section 2 of this Act when the
17 requested information is not otherwise exempt and the only
18 purpose of the request is to access and disseminate
19 information regarding the health, safety, welfare, or
20 legal rights of the general public.

21 (j) The following information pertaining to
22 educational matters:

23 (i) test questions, scoring keys and other
24 examination data used to administer an academic
25 examination;

26 (ii) information received by a primary or

1 secondary school, college, or university under its
2 procedures for the evaluation of faculty members by
3 their academic peers;

4 (iii) information concerning a school or
5 university's adjudication of student disciplinary
6 cases, but only to the extent that disclosure would
7 unavoidably reveal the identity of the student; and

8 (iv) course materials or research materials used
9 by faculty members.

10 (k) Architects' plans, engineers' technical
11 submissions, and other construction related technical
12 documents for projects not constructed or developed in
13 whole or in part with public funds and the same for
14 projects constructed or developed with public funds,
15 including but not limited to power generating and
16 distribution stations and other transmission and
17 distribution facilities, water treatment facilities,
18 airport facilities, sport stadiums, convention centers,
19 and all government owned, operated, or occupied buildings,
20 but only to the extent that disclosure would compromise
21 security.

22 (l) Minutes of meetings of public bodies closed to the
23 public as provided in the Open Meetings Act until the
24 public body makes the minutes available to the public under
25 Section 2.06 of the Open Meetings Act.

26 (m) Communications between a public body and an

1 attorney or auditor representing the public body that would
2 not be subject to discovery in litigation, and materials
3 prepared or compiled by or for a public body in
4 anticipation of a criminal, civil or administrative
5 proceeding upon the request of an attorney advising the
6 public body, and materials prepared or compiled with
7 respect to internal audits of public bodies.

8 (n) Records relating to a public body's adjudication of
9 employee grievances or disciplinary cases; however, this
10 exemption shall not extend to the final outcome of cases in
11 which discipline is imposed.

12 (o) Administrative or technical information associated
13 with automated data processing operations, including but
14 not limited to software, operating protocols, computer
15 program abstracts, file layouts, source listings, object
16 modules, load modules, user guides, documentation
17 pertaining to all logical and physical design of
18 computerized systems, employee manuals, and any other
19 information that, if disclosed, would jeopardize the
20 security of the system or its data or the security of
21 materials exempt under this Section.

22 (p) Records relating to collective negotiating matters
23 between public bodies and their employees or
24 representatives, except that any final contract or
25 agreement shall be subject to inspection and copying.

26 (q) Test questions, scoring keys, and other

1 examination data used to determine the qualifications of an
2 applicant for a license or employment.

3 (r) The records, documents, and information relating
4 to real estate purchase negotiations until those
5 negotiations have been completed or otherwise terminated.
6 With regard to a parcel involved in a pending or actually
7 and reasonably contemplated eminent domain proceeding
8 under the Eminent Domain Act, records, documents and
9 information relating to that parcel shall be exempt except
10 as may be allowed under discovery rules adopted by the
11 Illinois Supreme Court. The records, documents and
12 information relating to a real estate sale shall be exempt
13 until a sale is consummated.

14 (s) Any and all proprietary information and records
15 related to the operation of an intergovernmental risk
16 management association or self-insurance pool or jointly
17 self-administered health and accident cooperative or pool.
18 Insurance or self insurance (including any
19 intergovernmental risk management association or self
20 insurance pool) claims, loss or risk management
21 information, records, data, advice or communications.

22 (t) Information contained in or related to
23 examination, operating, or condition reports prepared by,
24 on behalf of, or for the use of a public body responsible
25 for the regulation or supervision of financial
26 institutions or insurance companies, unless disclosure is

1 otherwise required by State law.

2 (u) Information that would disclose or might lead to
3 the disclosure of secret or confidential information,
4 codes, algorithms, programs, or private keys intended to be
5 used to create electronic or digital signatures under the
6 Electronic Commerce Security Act.

7 (v) Vulnerability assessments, security measures, and
8 response policies or plans that are designed to identify,
9 prevent, or respond to potential attacks upon a community's
10 population or systems, facilities, or installations, the
11 destruction or contamination of which would constitute a
12 clear and present danger to the health or safety of the
13 community, but only to the extent that disclosure could
14 reasonably be expected to jeopardize the effectiveness of
15 the measures or the safety of the personnel who implement
16 them or the public. Information exempt under this item may
17 include such things as details pertaining to the
18 mobilization or deployment of personnel or equipment, to
19 the operation of communication systems or protocols, or to
20 tactical operations.

21 (w) (Blank).

22 (x) Maps and other records regarding the location or
23 security of generation, transmission, distribution,
24 storage, gathering, treatment, or switching facilities
25 owned by a utility, by a power generator, or by the
26 Illinois Power Agency.

1 (y) Information contained in or related to proposals,
2 bids, or negotiations related to electric power
3 procurement under Section 1-75 of the Illinois Power Agency
4 Act and Section 16-111.5 of the Public Utilities Act that
5 is determined to be confidential and proprietary by the
6 Illinois Power Agency or by the Illinois Commerce
7 Commission.

8 (z) Information about students exempted from
9 disclosure under Sections 10-20.38 or 34-18.29 of the
10 School Code, and information about undergraduate students
11 enrolled at an institution of higher education exempted
12 from disclosure under Section 25 of the Illinois Credit
13 Card Marketing Act of 2009.

14 (aa) Information the disclosure of which is exempted
15 under the Viatical Settlements Act of 2009.

16 (bb) Records and information provided to a mortality
17 review team and records maintained by a mortality review
18 team appointed under the Department of Juvenile Justice
19 Mortality Review Team Act.

20 (cc) Information regarding interments, entombments, or
21 inurnments of human remains that are submitted to the
22 Cemetery Oversight Database under the Cemetery Care Act or
23 the Cemetery Oversight Act, whichever is applicable.

24 (dd) Correspondence and records (i) that may not be
25 disclosed under Section 11-9 of the Public Aid Code or (ii)
26 that pertain to appeals under Section 11-8 of the Public

1 Aid Code.

2 (ee) The names, addresses, or other personal
3 information of persons who are minors and are also
4 participants and registrants in programs of park
5 districts, forest preserve districts, conservation
6 districts, recreation agencies, and special recreation
7 associations.

8 (ff) The names, addresses, or other personal
9 information of participants and registrants in programs of
10 park districts, forest preserve districts, conservation
11 districts, recreation agencies, and special recreation
12 associations where such programs are targeted primarily to
13 minors.

14 (gg) Confidential information described in Section
15 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

16 (hh) The report submitted to the State Board of
17 Education by the School Security and Standards Task Force
18 under item (8) of subsection (d) of Section 2-3.160 of the
19 School Code and any information contained in that report.

20 (ii) Records requested by persons committed to or
21 detained by the Department of Human Services under the
22 Sexually Violent Persons Commitment Act or committed to the
23 Department of Corrections under the Sexually Dangerous
24 Persons Act if those materials: (i) are available in the
25 library of the facility where the individual is confined;
26 (ii) include records from staff members' personnel files,

1 staff rosters, or other staffing assignment information;
2 or (iii) are available through an administrative request to
3 the Department of Human Services or the Department of
4 Corrections.

5 (jj) ~~(ii)~~ Confidential information described in
6 Section 5-535 of the Civil Administrative Code of Illinois.

7 (1.5) Any information exempt from disclosure under the
8 Judicial Privacy Act shall be redacted from public records
9 prior to disclosure under this Act.

10 (1.7) Any information exempt from disclosure under the
11 Public Safety Officer Privacy Act shall be redacted from public
12 records prior to disclosure under this Act.

13 (2) A public record that is not in the possession of a
14 public body but is in the possession of a party with whom the
15 agency has contracted to perform a governmental function on
16 behalf of the public body, and that directly relates to the
17 governmental function and is not otherwise exempt under this
18 Act, shall be considered a public record of the public body,
19 for purposes of this Act.

20 (3) This Section does not authorize withholding of
21 information or limit the availability of records to the public,
22 except as stated in this Section or otherwise provided in this
23 Act.

24 (Source: P.A. 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
25 98-695, eff. 7-3-14; 99-298, eff. 8-6-15; 99-346, eff. 1-1-16;
26 revised 1-11-16.)